

Message Text

PAGE 01 STATE 191939

11

ORIGIN EA-09

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-07 FRB-03

INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03 SP-02

CIEP-01 LAB-04 SIL-01 OMB-01 INT-05 L-03 H-02 /062 R

DRAFTED BY EA/IMS:ARDORNHEIM:CCH

APPROVED BY EA/IMS:EDWARD C. INGRAHAM

EB/IFD/OIA - MR. SMITH

EB/IFD/ODF - MS. STOCKER

EB/ORF/ICD/ISM - MR. DUX

TREASURY/BDPO/OASIA - MS. FROST

-

----- 058389

R 132036Z AUG 75

FM SECSTATE WASHDC

TO AMEMBASSY JAKARTA

LIMITED OFFICIAL USE STATE 191939

E.O. 11652: N/A

TAGS: EMIN, EFIN, ID

SUBJECT: THIRD GENERATION CONTRACT OF WORK FOR MINING
INDUSTRY TO INCREASE PRESSURE ON MINING COMPANIES

REF: JAKARTA 6209

1. WASHINGTON AGENCIES APPRECIATE OPPORTUNITY PROVIDED
BY EMBASSY TO BRING ANY VIEWS THEY MIGHT HAVE TO BEAR ON
GOI AS IT IS CONSIDERING SIGNIFICANT CHANGES IN ITS
MINING INVESTMENT LEGISLATION. AGENCIES HERE ALSO RECOG-
NIZE EXISTENCE OF POTENTIAL INVESTMENT AND TRADE OPPOR-
TUNITIES.

2. HISTORICAL DATA REQUESTED REFTTEL NOT READILY AVAILABLE.
LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 02 STATE 191939

IN ADDITION, ISSUES POSED BY EMBASSY ARE COMPLEX AND ARE
NOT USEFULLY ANALYZED IN ABSTRACT. NET EFFECT OF SPECIFIC
HOST GOVERNMENT RESTRICTIONS DEPENDS VERY MUCH UPON ALL
CIRCUMSTANCES FACING PARTICULAR FOREIGN INVESTORS AFFECTED.

3. IN GENERAL, WE BELIEVE U.S. MINING COMPANIES SHOULD TAKE LEAD IN REMONSTRATING WITH GOI OVER CHANGES IN CONTRACT OF WORK REPORTED REF A. THEY ARE DIRECT PARTIES IN INTEREST AND ARE BETTER ABLE THAN USG TO EVALUATE LIKELY IMPACT OF PROPOSED RESTRICTIONS ON THEIR FUTURE OPERATIONS

IN INDONESIA AND TO MAKE THEIR VIEWS KNOWN TO GOI.

4. RECOGNIZING THAT IT WOULD BE AWKWARD FOR U.S. MINING COMPANIES IN INDONESIA TO REMONSTRATE WITH GOI OFFICIALS ON BASIS PRIVILEGED COMMENTS TO AMBASSADOR BY SIGIT, DEPT AUTHORIZES EMBASSY TO RAISE SUBJECT OF FUTURE GOI MINING INVESTMENT POLICY WITH APPROPRIATE GOI OFFICIALS ON APPROPRIATE OCCASIONS. IN DOING SO, EMBASSY MAY DRAW ON TWO SETS OF TALKING POINTS. FIRST SET, EMPHASIZING IMPORTANCE GENERALLY OF PRIVATE FOREIGN INVESTMENT FOR INDONESIA, WAS PROVIDED FOR PRESIDENT'S MEETING WITH SUHARTO:

A. WE ARE SURE GOI CONTINUES TO RECOGNIZE VERY IMPORTANT CONTRIBUTION WHICH PRIVATE FOREIGN INVESTMENT IS MAKING TO COUNTRY'S DEVELOPMENT. PRIVATE FOREIGN COMPANIES CAN MOBILIZE TREMENDOUS CAPITAL REQUIRED FOR CERTAIN DEVELOPMENT PROJECTS WHICH GOI HAS BEEN RELUCTANT, IF NOT LOATH, TO UNDERTAKE. PRIVATE ENTERPRISES ARE ALSO VERY EFFECTIVE INTRODUCERS OF NEW INDUSTRIAL TECHNOLOGY AND SKILLS.

B. WE HAVE NOTED IMPORTANT ROLE WHICH WORLD BANK AND IMF HAVE ASSIGNED TO A CONTINUING HIGH LEVEL OF PRIVATE CAPITAL INFLOWS FOR INDONESIA'S FUTURE ECONOMIC GROWTH.

C. WE TRUST GOI WILL MAINTAIN A RECEPTIVE ATTITUDE TOWARD PRIVATE FOREIGN INVESTMENT.

5. SECOND SET IS PARTICULARLY ADDRESSED TO REPORTED LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 03 STATE 191939

CHANGES IN "THIRD GENERATION" MINING CONTRACTS. EMBASSY MAY WISH TO DISCUSS THESE POINTS FIRST WITH SOME RESIDENT U.S. MINING COMPANY REPRESENTATIVES AND REVISE THEM IN LIGHT OF THEIR COMMENTS.

A. WE BELIEVE THAT PROSPECTIVE U.S. AND OTHER FOREIGN PRIVATE INVESTMENTS IN INDONESIAN MINING SECTOR CAN CONTINUE TO CONTRIBUTE TO INDONESIA'S ECONOMIC DEVELOPMENT AND NOTE IMPORTANCE IN THIS REGARD WHICH BOTH WORLD BANK AND IMF HAVE PLACED ON CONTINUING FLOWS OF PRIVATE CAPITAL TO INDONESIA.

B. WE BELIEVE IT IS VERY IMPORTANT FOR GOI TO WORK TOWARD A REPUTATION FOR RELIABILITY. THIS WILL HELP INDUCE LONG-TERM INVESTMENTS AND DISCOURAGE FOREIGN MINING COMPANY PRACTICES HAVING SHORT-TERM OBJECTIVES.

C. IF GOI BELIEVES CIRCUMSTANCES HAVE CHANGED SUBSTANTIALLY AND HAS SERIOUS MISGIVINGS ABOUT BENEFITS

IT IS OFFERING TO PROSPECTIVE FOREIGN MINING COMPANIES, IT IS BEST, WE BELIEVE, TO DISCUSS THESE MISGIVINGS FRANKLY WITH EXISTING AND PROSPECTIVE INVESTORS. SUCH DISCUSSIONS ARE LIKELY TO LEAD TO MORE DURABLE INVESTMENT CONTRACTS, BEING BASED ON A MORE REALISTIC MUTUAL UNDERSTANDING OF EACH SIDE'S INTERESTS AND PROBLEMS.

D. RESTRICTIVE CONDITIONS PREMISED UPON A FIRM'S ABILITY TO ABSORB INCREASED COSTS DURING A PROFITABLE PERIOD MAY PROVE ONEROUS WHEN MARKET CONDITIONS CHANGE. ALTHOUGH IN SHORT RUN FIRMS WITH LARGE FIXED INVESTMENTS (SUNK COSTS) MAY HAVE NO FEASIBLE ALTERNATIVE TO ACCEPTING SUCH CONDITIONS, IN THE MEDIUM TO LONG TERM THESE AND OTHER INVESTORS CAN AND WILL CONSIDER ALTERNATIVE INVESTMENTS. ONCE COMMITMENT TO AN ALTERNATIVE INVESTMENT IS MADE -- PARTICULARLY WHERE A RESOURCE INVESTMENT IS CONCERNED -- DECISION TO GO AHEAD IS NOT EASILY REVERSED. FOR THESE REASONS, WE BELIEVE IT IS CLEARLY IN GOI INTEREST TO WORK OUT ARRANGEMENTS WITH COMPANIES CALCULATED TO ENABLE THEM TO EARN A REASONABLE RATE OF RETURN OVER LONG TERM.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 191939

E. EVEN IN SHORT TERM, A FOREIGN MINING COMPANY WITH SUNK COSTS MAY CURTAIL ITS OPERATIONS SO AS TO MINIMIZE EFFECT OF UNFAVORABLE HOST GOVERNMENT RESTRICTIONS WITH

A RESULTING LOSS OF FOREIGN EXCHANGE EARNINGS TO HOST GOVERNMENT.

F. WE WOULD EXPECT ANY TAXATION CHANGES INCORPORATED IN NEW MINING CONTRACTS TO BE REASONABLE IN MAGNITUDE AND NON-DISCRIMINATORY. RETROACTIVE TAX CHANGES SHOULD BE VIEWED WITH DISFAVOR, SINCE THEY CALL INTO QUESTION ALL COMMITMENTS MADE BY HOST GOVERNMENT.

G. IN PRESENT PERIOD OF RAPIDLY RISING INVESTMENT COSTS, WE BELIEVE THAT PROBLEMS PRIVATE FOREIGN COMPANIES HAVE IN SECURING LOANS NEEDED TO BUILD LARGE MINING AND INFRA-STRUCTURE FACILITIES SHOULD BE GIVEN SERIOUS ATTENTION BY GOI, ESPECIALLY WHEN GOI DESIRES URGENTLY THAT THESE FACILITIES BE BUILT. FOREIGN MINING COMPANIES ARE LIKELY TO FIND EXTERMELY HELPFUL IN THIS REGARD CONTINUED

ASSURANCES FROM GOI THAT THEY WILL HAVE FIRST ACCESS TO FOREIGN EXCHANGE EARNINGS FROM MINERAL EXPORTS AND CAN THEREBY MINIMIZE RISKS OF THEIR INVESTMENT IN EYES OF THEIR BANKERS. GOI HAS LEGITIMATE CONCERN THAT FOREIGN MINING COMPANIES MIGHT EXPORT INDONESIAN MINERALS TO THEIR SUBSIDIARIES AND AFFILIATES AT LESS THAN MARKET VALUE; BUT ACTION TO RESOLVE SUCH PROBLEMS FOR GOI CAN

TAKE PLACE, AS NECESSARY, WITHOUT GOI INSISTENCE ON FIRST ACCESS TO FOREIGN EXCHANGE EARNINGS.

H. IF FOREIGN MINING COMPANIES CURRENTLY HOLDING CONTRACTS OF WORK OR WITH APPLICATIONS FOR SUCH CONTRACTS ARE PERSUADED TO ABANDON THEIR PLANS FOR INDONESIA, IT IS HIGHLY UNLIKELY OTHER COMPANIES WILL BE INDUCED TO TAKE THEIR PLACE.

6. IS NEWLY FORMED INDONESIAN MINING ASSOCIATION TO BE A GOOD FORUM FOR DISCUSSION OF MUTUAL PROBLEMS BETWEEN GOI AND FOREIGN MINING COMPANIES? WE NOTE IN EMBASSY'S LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 05 STATE 191939

A-104 THAT MAIN IMA OBJECTIVE IS TO "SUPPORT GOVERNMENT IN ITS POLICIES".

7. WASHINGTON AGENCIES HAVE CONTINUING INTEREST IN U.S. AND OTHER FOREIGN MINING INVESTOR REACTION TO REPORTED GOI CHANGES IN MODEL THIRD GENERATION CONTRACT. IN THIS CONNECTION, EMBASSY'S A-80 ON SHELL'S REACTION TO PROPOSED GOI COAL PRODUCTION-SHARING CONTRACT WAS VERY WELCOME. KISSINGER

LIMITED OFFICIAL USE

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 26 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CONTRACTS, GOVERNMENT AGENCIES, LABOR DISPUTES, MINING INDUSTRY
Control Number: n/a
Copy: SINGLE
Draft Date: 13 AUG 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE191939
Document Source: ADS
Document Unique ID: 00
Drafter: EA/IMS:ARDORNHEIM:CCH
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D750280-0789
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t197508100/baaaarxm.tel
Line Count: 199
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 15 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 JUL 2003 by BoyleJA>; APPROVED <17 NOV 2003 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> gwr 971003
Subject: n/a
TAGS: EFIN, EMIN, ID
To: JAKARTA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006